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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,)	Case No. CV 10-02161 DDP (FMOx)
12	Plaintiff,)	
13	v.)	ORDER GRANTING PLAINTIFF'S EX
14	THE JANKOVICH COMPANY and)	PARTE APPLICATION FOR FULL
15	LLOYD'S SYNDICATE 1607, in)	DISCOVERY IN PART
16	personam,)	
17	Defendants.)	[Dkt. No. 164]
18	_____)	

As discussed in this court's earlier orders, Plaintiff has sought discovery regarding oil samples taken from Defendant the Jankovich Company ("Jankovich")'s fuel barge. Throughout the course of this litigation, Jankovich has maintained that it retained Saybolt Laboratories ("Saybolt") as a consulting expert. (Reply at 8.) Oil samples sent to Saybolt, however, were inadvertently destroyed. Due to this exceptional circumstance, on September 1, 2011 the court ordered both parties to disclose all objective laboratory data regarding the destroyed samples. (Dkt. No. 144.)

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1 Jankovich proceeded to produce to Plaintiff an antiquated
2 computer disk containing unreadable data files. Jankovich
3 maintains that it is also unable to access its own purported
4 expert's files.¹ It appears to the court that Jankovich's lack of
5 cooperation has, at least in part, frustrated the purposes of this
6 court's September 1 order. Alternative methods having failed, the
7 court GRANTS Plaintiff's Ex Parte Application in part. Plaintiff
8 shall be allowed to take a full discovery deposition of Saybolt,
9 and shall be allowed to obtain Saybolt's entire file related to the
10 Jankovich fuel samples. The court declines to grant Plaintiff
11 access to Jankovich's file at this stage.

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14 IT IS SO ORDERED.

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17 Dated: October 25, 2011


DEAN D. PREGERSON
United States District Judge

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26 ¹ Though the court does not now revisit the earlier conclusion
27 that Saybolt was retained as a non-testifying expert, newly
28 submitted evidence suggests that Jankovich may not have retained
Saybolt in preparation for trial and may not have instructed
Saybolt to maintain the oil samples. (Declaration of Ken Nabi ¶¶
2-5.)